

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> July 28, 2015		<b>DATE SUBMITTED:</b> July 6, 2015	
<b>DEPARTMENT OF ORIGIN:</b> Animal Services		<b>SUBMITTED BY:</b> E. Zaragoza	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input checked="" type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consider approving a proposed ordinance change to Chapter 10 - "Animals" to include Trap, Neuter and Return (TNR) for stray/feral felines.			
<b>SUMMARY STATEMENT:</b> A proposed ordinance change was brought to the June 9th Council Meeting. A general discussion by the City Council indicates a desire to include in the Animal Ordinance Trap-Neuter-Return (TNR) for all stray and feral felines within the City of Bryan. After the City Council discussion, a special joint meeting to include the Animal Center Advisory Committee (ACAC) and City Council was set for June 26, 2015 to hear a TNR presentation by Alley Cat Allies.			
<p>Upon the conclusion of the June 26, 2015 Alley Cat Allies presentation, the ACAC reviewed the TNR draft ordinance staff prepared (which was created with the counsel of Alley Cat Allies). The ACAC voted and unanimously (six of seven members were present) recommended the draft ordinance to the City Council for approval.</p> <p>Below is a summary/outline of the TNR program:</p> <p><b><u>Definitions</u></b></p> <ul style="list-style-type: none"> <li>• <b><i>Community cat</i></b> shall mean a cat that has been ear-tipped, vaccinated, and sterilized through Trap-Neuter-Return.</li> <li>• <b><i>Community cat caregiver</i></b> shall mean a person who participates in a Trap-Neuter-Return and/or provides care, including, food, shelter, and/or medical care to community cats. A community cat caregiver shall not be considered the owner, caretaker, custodian, harborer, or keeper of a community cat.</li> <li>• <b><i>Community cat colony</i></b> shall mean a group of community cats that congregate, more or less, together as a unit and may share a common food source.</li> <li>• <b><i>Ear-tipping</i></b> means the removal of the 3/8 inch tip of a cat's ear, performed while the cat is under anesthesia, to identify a cat as being a community cat that has been sterilized and lawfully vaccinated for rabies.</li> <li>• <b><i>Feral cat</i></b> shall mean a free-roaming domestic cat which is not owned and is not socialized to people. (Note: In an effort to better clarify this definition, "to people" was added without a review by the Animal Center Advisory Committee.)</li> <li>• <b><i>Trap-Neuter-Return</i></b> means the process of humanely trapping, sterilizing, vaccinating for rabies, ear-tipping, and returning community cats to their original location or releasing them in another community cat colony when authorized under Section 10-54.</li> </ul> <p><b><u>Ordinance Changes</u></b></p> <ul style="list-style-type: none"> <li>• Sec. 10-11. Abandonment of animals.</li> </ul>			

- It shall be unlawful for any person to abandon an animal in the city. Abandoned animals shall be impounded. ***It is a defense to prosecution under this section that the person is a community cat caregiver and the animal is a community cat.***
- Sec. 10-21. At large – Animals generally.  
***(d) This section shall not apply to community cats.***
  - Sec. 10-23. Traps.  
No person shall set any form of trap which causes bodily harm by the nature of the trap, including leg hold traps, ***or*** body traps. ***Humane live cage traps are permissible.***
  - Sec. 10-52. Rabies vaccination and license.  
***(j) This section does not apply to community cats.***
  - Sec. 10-53. Nuisance  
(a) All dogs and cats, ***excluding community cats***, shall be kept under restraint.
  - Sec. 10-54. Impoundment.  
(a) Notification of owner; unclaimed animals. Any dog or cat found at large, ***excluding community cats***, shall be impounded by the animal control authority in an animal shelter. ***Community cats may be impounded if they are causing a nuisance as defined in Section 10-53(c), or are sick, injured, or on property without the property owner's consent.*** Immediately upon impounding a dog or cat, ***excluding community cats***, the animal control authority shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Dogs and cats not claimed by their owners within a period of three full days in which the shelter is open to the public shall become the property of the animal shelter. Wild cats, dogs, and wildlife (which are not protected by federal law) shall become the property of the animal shelter upon receipt of any of the above-mentioned animals by the animal shelter. The animal shelter shall be entitled to dispose of such animals by adoption, humane euthanasia, or in such manner as previously agreed upon between the city and the owner of the animal hospital or shelter. ***Community cats impounded on a nuisance complaint may be relocated to another community cat colony by a trap-neuter-return caregiver, or humanely euthanized after a minimum hold period of three full days during which the shelter is open to the public. Community cats may be held longer, as space is available in the shelter. Community cats that bite or scratch a person shall undergo rabies observation or testing and shall be euthanized as required by law.***  
***(f) Subsections (c), (d), and (e) do not apply to community cats.***
  - Sec. 10-55. Redemption.  
(a) Any dog or cat impounded may be redeemed by the owner thereof within three full days in which the shelter is open to the public upon payment of an impoundment fee and signing any citations which are to be issued. If any such animal has been previously impounded, the impoundment fee shall be raised. Payment of impoundment fees is not considered to be in lieu of a fine, penalty or license fees. ***Any community cat that is released to a community cat caregiver may be released without payment of an impoundment fee.***
  - Sec. 10-57. Care.  
All dogs and cats must be provided with daily food sufficient for the breed and size to maintain the animal at a good level of nutrition, a shelter from the wind, cold and rain and a continuous source of clean wholesome water. Failure to provide any of the above by the owner, caretaker or custodian of the dog or cat will be in violation of this Code. ***This section does not apply to community cats.***

Approving this ordinance change will allow citizens within the City who wish to be community cat caregivers an opportunity to care for and redeem stray/feral cats that are considered TNR cats. These colonies may be established anywhere within the City as long as the cats are ear-tipped, vaccinated and sterile. However, community cats may be impounded if they are causing a nuisance, sick, injured, or on property without the owner's consent. At no

charge, a community cat caregiver may claim an ear-tipped cat at the Bryan Animal Center, and return the cat to the community (or Feral) cat colony. TNR is voluntary and does not require community cat caregivers to register with the City.

**STAFF ANALYSIS AND RECOMMENDATION:** The Animal Services Department recommends approval of the proposed amended Animal Ordinance to include Trap, Neuter and Return provisions.

Approving this ordinance change will allow participants within the City who wish to be community cat caregivers an opportunity to care for and redeem these stray/feral cats that are considered community cats. A community cat colony may be established anywhere within the City as long as the cats are ear-tipped, vaccinated and sterile. However, community cats may be impounded if they are causing a nuisance, sick, injured, or on property without the owner's consent. At no charge, a community cat caregiver may claim an ear-tipped cat at the Bryan Animal Center, and return the cat to the community (or Feral) cat colony.

**OPTIONS (In Suggested Order of Staff Preference):**

1. Approve the proposed changes
2. Approve the proposed changes with modifications, which may require consideration at a future City Council meeting
3. Do not approve the proposed changes

**ATTACHMENTS:**

- A. Proposed Revised Ordinance

**FUNDING SOURCE:** As proposed, staff does not anticipate additional operating cost to implement TNR.

**APPROVALS:** Jayson E. Barfknecht 07/13/15; Hugh R. Walker, 07/16/2015

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 16Jul2015

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton, 7/16/2015

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 10, "ANIMALS," ARTICLE I, "IN GENERAL" AND ARTICLE II, "DOGS AND CATS" OF THE CODE OF ORDINANCES, CITY OF BRYAN, TEXAS, TO ALLOW FOR TRAP-NEUTER-RETURN OF COMMUNITY CATS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; FINDING; DETERMINING THAT THE MEETINGS AT WHICH THE ORDINANCE IS PASSED ARE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bryan has a number of stray/feral cat colonies located throughout the City, which can present a nuisance to the citizens and a danger to the cats themselves; and

**WHEREAS**, there is a trend towards Trap-Neuter-Return as a humane method for reducing the size of, and risk posed by, cat colonies of this nature; and

**WHEREAS**, the City of Bryan's ordinances include a number of provisions aimed at the protection of animals, including requirements regarding rabies vaccination, impoundment of strays, and prohibitions against abandonment; and

**WHEREAS**, these ordinances, as written, prevent citizens from legally implementing Trap-Neuter-Return, which serves as an impediment to the protection of these animals and household pets alike; and

**WHEREAS**, the City Council has determined that it is in the best interests of the citizens of this community for Trap-Neuter-Return to be legalized so that citizens can take a more direct role in controlling and serving this population of homeless pets; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:**

Section 1.

That Article I, "General", Section 10-1, "Definitions" be amended by adding the following definitions in appropriate alphabetical order.

Sec.10-1.Definitions.

**Community cat shall mean a feral cat that has been ear-tipped, vaccinated, and sterilized through Trap-Neuter-Return.**

**Community cat caregiver shall mean a person who participates in Trap-Neuter-Return and/or provides care, including, food, shelter, and/or medical care to community cats. A community cat caregiver shall not be considered the owner, caretaker, custodian, harbinger, or keeper of a community cat.**

**Community cat colony shall mean a group of community cats that congregate, more or less, together as a unit and may share a common food source.**

**Ear-tipping means the removal of the 3/8 inch tip of a cat's ear, performed while the cat is under anesthesia, to identify cat as being a community cat that has been sterilized and lawfully vaccinated for rabies.**

**Feral cat shall mean a free-roaming domestic cat which is not owned and is not socialized to people.**

**Trap-Neuter-Return means a nonlethal approach to feral cat population control where feral cats are humanely trapped, sterilized and vaccinated, eartipped, and then returned to the location where they were originally trapped or to another community cat colony when authorized under Section 10-54.**

Section 2.

That Article I, "General", Section 10-11, "Abandonment of animals", be amended as follows:

Sec. 10-11. - Abandonment of animals.

It shall be unlawful for any person to abandon an animal in the city. Abandoned animals shall be impounded. **It is a defense to prosecution under this section that the person is a community cat caregiver and the animal is a community cat.**

Section 3.

That Article I, "General", Section 10-21, "At large-Animals generally", be amended by adding subsection (d) as follows:

10-21 At large-Animals generally.

**(d) This section shall not apply to community cats.**

Section 4.

That Article I, "General", Section 10-23, "Traps", be amended as follows:

Sec. 10-23. - Traps.

No person shall set any form of trap which causes bodily harm by the nature of the trap, including leg hold traps, or body traps ~~or any trap other than humane live cage traps that have been approved by the animal control authority.~~ **Humane live cage traps are permissible.**

Section 5.

That Article II, "Dogs and Cats", Section 10-52, "Rabies vaccinations and license", be amended by adding subsection (j) to read as follows:

Sec. 10-52. - Rabies vaccination and license.

**(j) This section does not apply to community cats.**

## Section 6.

That Article II, "Dogs and Cats", Section 10-53, "Nuisance", be amended as follows:

### Sec. 10-53. - Nuisance.

- (a) All dogs and cats, *excluding community cats*, shall be kept under restraint.

## Section 7.

That Article II, "Dogs and Cats", Section 10-54, "Impoundment", be amended as follows:

### Sec. 10-54. - Impoundment.

- (a) Notification of owner; unclaimed animals. Any dog or cat found at large, **excluding community cats**, shall be impounded by the animal control authority in an animal shelter. **Community cats may be impounded if they are causing a nuisance as defined in Section 10-53(c), or are sick, injured, or on property without the property owner's consent.** Immediately upon impounding a dog or cat, **excluding community cats**, the animal control authority shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Dogs and cats, excluding community cats, not claimed by their owners within a period of three full days in which the shelter is open to the public shall become the property of the animal shelter. Wild cats, dogs, and wildlife (which is not protected by federal law) shall become the property of the animal shelter upon receipt of any of the above-mentioned animals by the animal shelter. The animal shelter shall be entitled to dispose of such animals by adoption, humane euthanasia, or in such manner as previously agreed upon between the city and the owner of the animal hospital or shelter. **Community cats impounded on a nuisance complaint may be relocated to another community cat colony by a community cat caregiver, or humanely euthanized after a minimum hold period of three full days during which the shelter is open to the public. Community cats may be held longer, as space is available in the shelter. Community cats that bite or scratch a person shall undergo rabies observation or testing and shall be euthanized in accordance with law. Community cats impounded for biting and or scratching a person may not be released to a community cat caregiver, returned to their original location or relocated to another community cat colony.**
- (b) Pursuit of dog or cat onto private property. The animal control authority shall have the right to pursue and apprehend a free roaming dog or cat onto private property without first requesting permission from the owner of the property or without obtaining a search warrant.
- (c) Citation of owner. When a dog or cat is found at large and its ownership is verified by the animal control authority, the authority may exercise the option of serving the owner with a citation and/or impounding the animal. The city shall establish a prima facie case by proving the ownership of the animal and that it was at large.
- (d) Care; owner liability. In the event that the animal control authority finds dogs or cats to be suffering, it shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when necessary to prevent further suffering. Return of the animal to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

(e) Disposal not to relieve owner of liability. Disposal of a dog or cat by any method specified herein does not relieve the owner of liability for violations and any accrued charges or citations.

**(f) Subsections (c), (d), and (e) do not apply to community cats.**

Section 8.

That Article II, “Dogs and Cats”, Section 10-55, “Redemption”, be amended as follows:

Sec. 10-55. - Redemption.

(a) Any dog or cat impounded may be redeemed by the owner thereof within three full days in which the shelter is open to the public upon payment of an impoundment fee and signing any citations which are to be issued. If any such animal has been previously impounded, the impoundment fee shall be raised. Payment of impoundment fees is not considered to be in lieu of a fine, penalty or license fees. **Any community cat that is released to a community cat caregiver may be released without payment of an impoundment fee.**

Section 9.

That Article II, “Dogs and Cats”, Section 10-57, “Care”, be amended as follows:

Sec. 10-57. - Care.

All dogs and cats must be provided with daily food sufficient for the breed and size to maintain the animal at a good level of nutrition, a shelter from the wind, cold and rain and a continuous source of clean wholesome water. Failure to provide any of the above by the owner, caretaker or custodian of the dog or cat will be in violation of this Code. **This section does not apply to community cats.**

Section 10.

That this ordinance shall be cumulative of all provisions of ordinances of the City of Bryan, except where the provisions of this ordinance are in direct conflict therewith, in which case the prior ordinance or parts thereof are hereby repealed to the extent of the conflict.

Section 11.

That all rights or remedies of the City of Bryan, Texas are expressly saved as to any and all violations of the provisions of Chapter 10 of the City Code which have accrued at the time of the effective date of this ordinance; and, as to all such accrued violations, and all pending litigation, both civil or criminal, whether pending in court or not, under such chapter and/or other ordinances same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 12.

That should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby, and to this end the provision of this ordinance are declared to be severable.

Section 13.

That it is the intention of the City Council that this ordinance shall become a part of the Bryan City Code of Ordinance and it may be renumbered and codified therein accordingly.

Section 14.

That it is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by Chapter 551.001, *et seq.*, of the Texas Government Code, and that advance public notice of the time, place and purpose of said meetings was given.

Section 15.

This ordinance shall take effect immediately after its second and final reading.

**PRESENTED AND GIVEN** first reading the 28<sup>th</sup> day of July, 2015 at a regular meeting of the City Council of the City of Bryan, Texas; and given a second reading, **PASSED AND APPROVED** on the 4th day of August 2015 by a vote of \_\_\_\_\_ yeses and \_\_\_\_\_ noes at a regular meeting of the City Council of Bryan, Texas.

ATTEST:

CITY OF BRYAN, TEXAS:

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Jason P. Bienski, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Janis K. Hampton, City Attorney